proximal (lower) end mounted stably to the sea bottom, and that substantially the entire panel surface area is submerged in the L/2 depth region below the sea surface.

In contrast, Axelford shows a pendulum-type paddle or vane which is mounted on a pivotal frame extending at some depth beneath the sea surface. The paddle pivots by its lower end about its mid-level mount, which is exactly opposite to the invention defined in Claim 1 that pivots by its distal (upper) end about its proximal (lower) end mounted stably to the sea bottom. The surface area of the Axelford paddle appears to occupy only a small part of the L/2 region.

The Smith patent shows a system markedly different from Axelford, in which an upright sail moves to and fro on a horizontal track over a horizontal distance L/2 along with the ebb and flow of wave motion. Smith takes advantage of the difference in height between the crest of an oncoming wave above the water level at the backside of the sail to push the sail on a horizontal slide to and fro. The base of the sail is pivotably mounted to a carriage movable on the track, but any pivoting is primarily only to accommodate the pressure difference due to the height difference on the front and back sides of the sail above the sea surface, not the circular motion of water particles in the L/2 region below the sea surface. The Smith panel does not have substantially its entire surface area located within the L/2 region beneath the sea surface, but rather protrudes above the sea surface to take advantage of the difference between wave crest and trough heights.

The Smith teaching (upright sail extending above the sea surface mounted on pivot slide below the sea surface) cannot be combined with the Axelford teaching (pendulum paddle extending toward the sea bottom on a frame mounting below the sea surface) since they are fundamentally different structures operating in different ways. Neither patent discloses or suggests that substantially the entire panel surface area impacted by the wave motion is submerged in the L/2 depth region below the sea surface.

In summary, Claim 1 as amended in now deemed to be patentably distinct over the cited prior art, as well as Claims 2-20 depending therefrom.

Respectfully submitted,
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